

REMARKS

Formal Matters

Claims 41-59 are pending after entry of the amendments set forth herein.

Original claims 1-40 have been canceled and new claims 41-59 have been added to more particularly point out and distinctly claim the invention. The newly added claims 41-59 are believed to be fully supported within the originally filed application such as within originally pending now canceled claims 1-40.

In support of new claim 41 see originally pending now canceled claim 1. In support of new claim 42 see originally pending now canceled claims 17 and 18 as well as other claims and disclosure within the specification. For new claims 43 and 44 see originally pending now canceled claims 2 and 3 respectively. For new claim 45 see originally pending now canceled claim 6. For new claim 46 see originally pending now canceled claim 32. For new claims 47, 48 and 49 see originally pending now canceled claim 20. For new claims 50 and 51 see originally pending now canceled claims 34, 35 and 36. For new claims 52-59 reference is made to the claims referred to above in support of new claims 41-51. No new matter has been added.

Applicants respectfully request reconsideration of the application in view of the amendments and remarks made herein.

No new matter has been added.

The present application was filed as a national phase application under 35 U.S.C. §371 on November 17, 2000 with claims 1-41 of the original PCT application. Applicants filed a preliminary amendment on May 18, 2001 canceling original claims 1-41 and adding new claims 42-66. A Notice of Missing Parts was forwarded to applicants from the Patent Office on May 25, 2001. Applicants perfected the application with an executed Declaration on June 12, 2001 thereby obtaining a filing date under 35 U.S.C. §102(e) of June 12, 2001.

As indicated in the Interview Summary filed with this amendment the Examiner confirmed that the Preliminary Amendment was not received and that the Patent Office had only claims 1-40. Accordingly, the claims 1-40 were canceled here and new claims 41-59 added in order to eliminate confusion with respect to what claims might be pending and overcome the specific formal objections raised to the claims.

Objections to the Specification

Objections to the specification based on the inclusion of hyperlinks was made. The specification has been amended to delete the reference to the hyperlinks thereby rendering the objection moot.

Further objections were made in view of sequences being present in the application without being identified with a sequence listing ID number. The specification has been amended to correct this matter.

Rejection under 35 U.S.C. 1.75(c)

Claims 4-12 and 14-39 were objected to as being improper multiple dependent claims. The Examiner was correct with respect to this position. Accordingly, these claims have been canceled and new claims have been added which do not include multiple dependencies.

Claims 13 and 40 were rejected under 35 U.S.C. §112, second paragraph as being indefinite. Without acquiescing to the rejection applicants have added new claims which do not include the specific language objected to. Accordingly, the objection has been rendered moot.

Obviousness-Type Double Patenting Rejection

Claims 1-3 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting over claim 54 of U.S. Patent Application Serial No. 10/132,920.

Without acquiescing to the validity of the rejection applicants have attached hereto a Terminal Disclaimer with respect to the Application Serial No. 10/132,920 thereby rendering the rejection moot.

Information Disclosure Statement

Applicants respectfully request that the Examiner initial and return the PTO 1449 [SB-08A] form submitted with the Information Disclosure Statement filed on July 30, 2001 in this application, thereby indicating that the references cited therein have been reviewed and made of record.

Certification Regarding Sequence Listing

I hereby certify that the enclosed Sequence Listing is being submitted under 37 CFR §§ 1.821(c) and (e) in paper and computer readable form (Compact Disk labeled 'CRF').

As required by 37 CFR 1.821(f), I hereby state that the content of the paper and computer readable copy of the Sequence Listing, submitted in accordance with 37 C.F.R. §1.821(c) and (e) are the same. The Computer Readable Format (CRF), being submitted under 37 CFR §§ 1.52(e) and 1.824, is formatted on IBM-PC, the operating system compatibility is MS-Windows and the file listing is:

Seqlist.txt 11 KB created October 24, 2003.

I hereby certify that the enclosed submission includes no new matter. The Sequence Listing was prepared with the software FASTSEQ, and conforms to the Patent Office guidelines. Applicant respectfully submits that the subject application is in adherence to 37 CFR §§ 1.821-1.825.

Conclusion

Amendments have been made to the specification in order to overcome the objections made. A new set of claims have been submitted rendering formal objections moot. A Terminal Disclaimer is attached thereby overcoming the obviousness-type double patenting rejection. Accordingly, the application is now believed to be in condition for allowance and an indication of such is respectfully requested.

Applicant submits that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-0815, order number BEAR-008.

Respectfully submitted,
BOZICEVIC, FIELD & FRANCIS LLP

Date: _____

24/08/03

By: _____

[Signature]
Karl Bozicevic
Registration No. 28,807

BOZICEVIC, FIELD & FRANCIS LLP
200 Middlefield Road, Suite 200
Menlo Park, CA 94025
Telephone: (650) 327-3400
Direct: (650) 833-7735
Facsimile: (650) 327-3231

Attachments: Terminal Disclaimer

F:\DOCUMENT\BEAR (formerly 8302)\008\amend to oa 8-14-03.doc